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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,224	03/01/2004	Michael Walter Dinda	BGN1360	7971
34356	7590	12/14/2005	EXAMINER LABBEES, EDNY	
ASHKAN NAJAFI, P.A. 6817 SOUTHPOINT PARKWAY SUITE 2301 JACKSONVILLE, FL 32216			ART UNIT 2632	

DATE MAILED: 12/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/789,224

Applicant(s)

DINDA, MICHAEL WALTER

Examiner

Edny Labbees

Art Unit

2632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Amendment filed on 10/27/2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/01/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1 and 6 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Reference demonstrates the vacuum switch operates in a conventional way, i.e. pressure high when accelerating and pressure low when decelerating as shown in the specifications. However, the claims disclose the manner discussed above in reverse order. Since the specification does not specifically disclose how the switch is operating the specific mechanism; it merely state the outcome, the specification fails to provide enabling disclosure as recited in the claims. It is not clear how the does the vacuum switch operate specifically.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller (US 4,959,634) in view of L.T. Lee (US 3,478,312).

Regarding Claim 1, Miller discloses *Vehicle Deceleration Warning Apparatus* that has the following claimed limitations:

Claimed switch connected to first vehicle vacuum engine system is met by a conventional vacuum switch (14) connected to an engine system (see Col. 3 Ins 49-62); claimed switch for sending a plurality of signals corresponding to non-accelerating mode and accelerating mode is met by the switch actuated when there is a drop in the manifold vacuum below a predetermined level corresponding to a non-accelerating mode (see Col. 3 Ins 49-62). Although Miller does not specifically disclose a signal corresponding to accelerating mode, the examiner interprets when the vehicle is accelerating; the vacuum switch (14) outputs a zero to indicate the vehicle is accelerating and a 1 to indicate that the vehicle is decelerating. Claimed light switch connected to switch is met by the lamp actuator (12) operably connected to vacuum switch (14) (see Fig. 1, Col. 3 Ins 32-40 and Ins 60-62). Miller discloses a warning lamp actuator that is activated when the acceleration pedal is released and before the brake pedal is depressed but does not disclose the brake light flashing in response to the action just mentioned. However L.T. Lee discloses *Automotive Deceleration Signal System* that teaches a system where the flasher (unlabeled) flashingly energizes all the signal lamps to give the indication that the vehicle is decelerating. Therefore it would have been obvious to one of ordinary skill in the art to incorporate the teachings of L.T.

Lee into the system of Miller so that pedestrians and other drivers can have a clear indication that the vehicle is decelerating thus providing additional safety on the road.

Regarding Claim 2, Miller discloses all of the claimed limitations. Claimed vacuum switch is met by a vacuum switch (14) (see Fig. 1 and Col. 3 lns 50-51).

Regarding Claim 4, Miller discloses all of the claimed limitations. Claimed switch disposed within a first vehicle engine compartment is met by the vacuum switch (14) disposed in the vehicle engine compartment.

Regarding Claim 5, Miller and Lee does disclose a lens connected to the first vehicle brake light. However as long as the brake lights taught by the reference Lee performs its desired functionality, one ordinary skilled could readily recognize that using a lens in claim 5 would not constitute an inventive concept but an obvious design choice.

Regarding Claim 6, the claim is rejected and interpreted as claim 1 and 4 stated above.

Regarding Claim 7, the claim is rejected and interpreted as claim 5 stated above.

Regarding Claim 8, the claim is rejected and interpreted as claim 1, 4 and 5 stated above.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Miller and J.T. Lee further in view of Marvin L. Garrison (US 3,576,529).

Regarding Claim 3, Miller and J.T. Lee do not disclose a system comprising an electrical switch. However Garrison discloses *Deceleration Warning Device* that

teaches an electrical switch that is energized when the brake pedal is depressed and deenergized when the brake is released. Therefore it would have been obvious to one of ordinary skill in the art to incorporate the teachings of Garrison into the system of Miller and Lee because using an electrical switch controls a light signal to be actuated (see Col. 1 Ins 28-37).

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Engelman et al. *System To Determine The Intent To Brake And To...* (6,677,855)

Erlandson, *Driving-Safety Ancillary White Flash Alerting System* (US 6,025, 775)

Hawkins, *Vehicle Acceleration And Deceleration Indicator* (3,711,828)

Jones, *Deceleration Warning System With Self-Purging Pressure Control*
(6,147,599)


Eggiman et al. *Apparatus For Flashing Vehicle Lights To Warn Of Engine Stall*
(US 4,878,042)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edny Labbees whose telephone number is (571) 272-2793. The examiner can normally be reached on M-F: 7:00 - 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel J. Wu can be reached on (571) 272-2964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Edny Labbees
12/7/2005


DANIEL WU
SUPERVISORY PATENT EXAMINER
12/12/05